

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 23RD MARCH 2007 / 2ND CHAITHRA 1929

Crl.MC.No. 860 of 2007()

CC.283/2004 of JUDL.MAGISTRATE OF FIRST CLASS-II, MANANTHAVADY
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PETITIONER: APPELLANTS/ACCUSED A1 TO A4 & A7.

1. JOHN, S/O.ESTHAPPAN, ELAVANNAMTHADATHIL HOUSE, MARAKKADAVU P.O., MULLANKOLLY, WAYANAD.
2. KUTTY, S/O.JOSEPH, URUMBIKAROTT HOUSE, MARAKKADAVU P.O., MULLANKOLLY, WAYANAD.
3. CHANDRU, S/O.MALLA GOWDA, HOSUR GATE, BYRAKUPPA POST, KARNATAKA.
4. MAHESH, S/O.SUBAN, HANNAKOTTA, KARNATAKA.
5. SHYJAN M.C., S/O.CHACKO, MORUKUNNEL VEEDU, MARAKKADAVU POST, MULLANKOLLY.

BY ADV. SRI.KRISHNA PRASAD. S

RESPONDENTS: COMPLAINANT.

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM REPRESENTING ASSISTANT WILD LIFE
WARDEN THOLPETTY RANGE.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 23/03/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

Crl.M.C.No.860 of 2007

Dated this the 23rd day of March 2007

O R D E R

The petitioners were found guilty, convicted and sentenced in a prosecution under the provisions of the Wild Life Protection Act. They preferred an appeal before the learned Sessions Judge. The learned Sessions Judge admitted the appeal and suspended the sentence subject to conditions. Inter alia a condition is imposed that each of the accused must deposit an amount of Rs.10,000/- towards the fine amount. The petitioners have now come before this court complaining about the imposition of the said condition.

2. There is no contention that the learned Sessions Judge has no jurisdictional competence to impose that condition. Even the impugned judgment passed by the trial court which is availed in the appeal is not produced before this court and there is no contention that the discretion to direct deposit of fine has been exercised wrongly. The short contention raised is that the petitioners are too poor and cannot pay the amounts. If insistence on payment of the said amounts were made, the

petitioners would face the unfortunate predicament of the sentence being executed against them even before their appeal is taken up for consideration.

3. Having considered all the relevant inputs, I am satisfied that though the condition imposed does not warrant interference, appropriate directions can be issued in favour of the petitioners.

4. In the result, this Criminal Miscellaneous Case is allowed in part. If the petitioners deposit an amount of Rs.5,000/- (Rupees five thousand only) on or before 13/4/2007, the learned Sessions Judge shall grant them time till 31/05/2007 to pay the balance amount of Rs.5,000/-. If the petitioners are not able to raise the balance amount, they may, on or before 13/4/2007 make an application to the learned Sessions Judge for expeditious disposal of the appeal and learned Sessions Judge in that event must dispose of the appeal on or before 24/5/2007.

(R.BASANT, JUDGE)

jsr

// True Copy//

PA to Judge

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006